

Olmstead Advisory Committee

August 26, 2005

10:00 am - 4:00 pm

Department of Rehabilitation

1st Floor Conference Room

Meeting Minutes

Present:

- Kimberly Belshé, Secretary, California Health and Human Services Agency
- Brenda Premo, Chair, Olmstead Advisory Committee
- Sarah Steenhausen, Staff, California Health and Human Services Agency
- Terri Delgadillo, Chief Deputy Secretary, California Health and Human Services Agency
- Frank Furtek, Chief Counsel, California Health and Human Services Agency
- Tony Anderson, The Arc of California
- Richard Chambers, CalOptima
- Bill Chrisner, The Dayle McIntosh Center
- Judy Citko, California Hospital Association
- Peggy Collins, Principal Consultant, Senate Select Committee on Developmental Disabilities and Mental Health
- Deborah Doctor, Protection and Advocacy, Inc.
- Nancy Hall, Community Resources for Independence
- Barbara Hanna, California Association for Health Services At Home

- Mary Jann, California Association of Health Facilities
- Jorge Lambrinos, California Commission on Aging
- Joan Lee, Gray Panthers of California
- Gwen Lewis-Reid, Los Angeles County, Department of Mental Health
- Bryon MacDonald, World Institute on Disability
- Sunny Maden, Family Member and Advocate (did she attend?)
- Jackie W. McGrath, Alzheimer's Association, California Council
- Lydia Missaelides, California Association of Adult Day Services
- Marty D. Omoto, California Disability Community Action Network
- Donald Roberts, Department of Developmental Services Consumer Advisory Committee
- Elizabeth Rottger, California Association of Area Agencies on Aging
- Tony Sauer, Nevada-Sierra Regional IHSS Public Authority
- Timothy Schwab, SCAN Health Plan
- Linda L. Watts, Older and Disabled Adult Services, Solano County Health and Social Services
- Kate Wilber, Center for Long Term Care Integration
- Kathie Zarkin, Alameda County Network of Mental Health Clients

1) Welcome and Introductory Remarks by Brenda Premo, Chair, Olmstead Advisory Committee and Kim Belshé, Secretary, Health and Human Services Agency

Secretary Belshé began by acknowledging the work done since the last committee meeting on May 27, which focused on thinking through the organization and structure of the committee work and the

development of the Olmstead Policy Statement as well as the Olmstead filter.

Brenda reminded the committee that this is a public committee that is appointed by the Secretary of the Health and Human Services and is a Governmental Committee, which is a nonprofit that must adhere to public meeting laws. She stated that the public rules ensure that the committee and the community get to communicate with each other so that no one is left out. The intent of these rules are very important because it ensures that the public that is interested in this topic or any other topic that the government provides, actually gets input. Because of the complexity of the public rules, she introduced Frank Furtek, Chief Counsel of the Health and Human Services Agency who gave a presentation to explain those rules.

2) Open Meeting Act Requirements

Frank Furtek explained the Open Meetings Law, stating that the committee is bound by the state act called the Bagley-Keene Open Meeting Act found in the Government Code section. The Attorney General's Office puts out the Handy Guide to the Bagley-Keene Open Meeting's Act, which is revised every year or so. Each committee member was provided a copy. The intent behind Bagley-Keene is that a member of the public should have access to all information, all discussions, and all decisions made by this committee and the appointed members. He further explained what constitutes a meeting or teleconference and explained the rules for each. He also explained the requirements pertaining to the meeting notice and agenda.

Secretary Belshé asked Frank to elaborate on the "Hub and Spoke" issue specifically related to Sarah Steenhausen being the point of contact. He clarified that Sarah serves as the hub and talks to members of the committee and each individual member of the committee serves as a spoke.

A question was raised regarding information-only items. Frank replied that if information were intended to result in a decision made by the committee, then disseminating that information to a quorum would be in violation of Bagley-Keene. If it is information, just for the

sake of information, that is not in violation with Bagley-Keene. Most of Bagley-Keene interpretation is based on facts of the circumstances. If you can justify that the information is just information that the entire committee as a whole would benefit from, in a general fashion, then that is not in violation of Bagley-Keene.

3) An Olmstead Primer

Sarah Steenhausen gave a brief description of the Olmstead decision and what it means in terms of the scope of this committee's responsibilities.

She explained that the Olmstead decision was the first time that the Supreme Court had made a ruling regarding Title Two of the Americans with Disabilities Act and its application to disabled individuals who live in institutions or publicly-funded institutions. Title Two of the Americans with Disabilities Act requires that public entities administer programs and services in the most integrated setting appropriate to the needs of a qualified individual with a disability. The rules also require that a covered entity make reasonable modifications in programs and activities in order to avoid discrimination against persons with disabilities unless it can show that the modification would fundamentally alter the nature of the program or activities.

Bryon MacDonald commented that he struggles with Olmstead because the Supreme Court decision was made was based on institutional residents as opposed to community residents. He clarified that Olmstead applies to any program with state funding being provided in a community-based setting as opposed to an institutional setting that covers employment as well as living arrangements.

4) State Update and Discussion

a.) State Budget Update

Secretary Belshé addressed the committee on the recently signed budget by the Governor and the difficulties he faced in some of the decisions he had to make and how those difficulties will impact this

committee. She also mentioned some of the positive decisions made by the Governor's Budget, which made way for important new investments, and ongoing investments that impact the committee's work.

Secretary Belshé stated that with every budget, there are things the Administration can point to with pride and other things that are recognized as a reflection of the difficult times. With this, she stressed the commitment the Governor brought to protecting eligibility for health programs, even while facing a difficult budget year ahead. She wanted to bring to mind that there will most likely be reductions and this agency will have to bear some of those reductions.

Bryon MacDonald asked about the savings projected for managed care and if it was something the Secretary could project on publicly. Secretary Belshé responded that she would discuss this in further detail when she moved on to the next agenda items dealing with the managed care expansion proposal.

Tony Sauer asked if she would elaborate on the federal activity on Medicaid and whether the state was projecting any cuts and what kind of advocacy were we doing. Secretary Belshé indicated that she would also address this in the context of hospital financing and managed care expansion, but noted that the Administration is working with the National Governor's Association in WA, DC and other states on this issue.

b.) Review of 2005 Real Choice Systems Change Grant Application

Sarah Steenhausen thanked all the committee members who sent so many letters of support in writing this application. She provided a summary of what the grant was and introduced Linda Blong and Megan Juring from the Sonoma State University, who applied as the lead grant entity along with the Department of Rehabilitation. The Real Choice System Change Grant is one of the President's initiatives aimed at keeping people in the community and/or moving people out of nursing homes. California applied for a \$3.5 million grant with three selected goals: 1) To improve access to long term support services; 2) to create a system that more effectively manages

the funding for long term supports that promote community living options; and 3) to create long term supports coordinated with affordable and accessible housing. She explained how the grant worked and how the grant money would be applied.

Peggy Collins asked if the grant specifies the entities and locations for the pilot projects. A panel selected by the Department of Rehabilitation and the Sonoma State University, to select the two qualifying entities, would determine the areas. Peggy also asked if it specified how many people it intends on serving or would it be a part of the proposal. Brenda Premo stated that this would have to be determined through the RFP process.

Lydia Missaelides added that the group had agreed on prioritizing services for those at risk of institutionalization, but whether the focus is on certain kinds of hospitals and who constitutes being at risk would be a question for the strategic planning process to address.

Sarah Steenhausen continued her summary by stating that the second part of the grant is to examine the financing and service delivery structures of MediCal, other long term care programs, and accessible transportation in order to make policy recommendations to the Legislature and the administration on how to better meet consumer demand for community base care.

Linda Blong discussed the role of the Olmstead Committee in advising the project throughout the course and particularly in the first six to nine months, which will all be focused on the strategic planning.

Brenda Premo added that this grant related to the two objectives that we hold very high and that is keeping people out of institutions. She felt, that if funded, this grant could actually move this committee towards some of the high priority goals in terms of the committee's priorities.

Sarah Steenhausen assured everyone that she would send out an announcement as soon as the decision was released. (NOTE: Since the meeting, Agency has been informed that CMS did not award a grant to California).

c.) Hospital Financing Waiver and Managed Care Expansion

Secretary Belshé began by stating that this is an extremely complicated issue. By way of context, California is the only state in the nation that has a Federal Waiver; federal approval to operate outside of normal federal rules to selectively contract with hospitals for the Medicaid program (referred to as the Selective Provider Contracting Program). California has had a waiver from the Federal Government for over twenty years that has allowed the state to leverage its considerable purchasing power and to negotiate with hospitals in a way that maintains access to hospital services for persons enrolled in the MediCal program, while at the same time, saving the state hundreds of millions of dollars.

She explained that because it's a waiver, we have to have the Federal Government's blessing to selectively contract. She explained that the most recent waiver expired at the end of June and throughout the past year, the State has been working with the Federal Government to renegotiate that waiver in a way that the Federal Government will provide support going forward.

She explained the Terms and Conditions of the Waiver, which was finalized at the end of June. She believes that the negotiated deal was the best the state could have accomplished. She discussed the controversial conditions that the Federal Government imposed on the state as well.

Next, Secretary Belshé discussed managed care and acknowledged it is an issue of great sensitivity and complexity to the committee and to many others. She shared that as part of the Governor's redesign efforts, he put forward a proposal to move more of the population in MediCal into organized systems of care focusing on women and children in additional counties, as well as roughly five hundred thousand seniors and persons with disabilities. She discussed the reasons for putting forward this proposal, independent of the hospital financing waiver. She was hopeful of getting a bill to the Governor for signature by September 9th.

Bryon MacDonald asked about specific requirements of the waiver, which Secretary Belshé clarified. He also asked about the managed

care initiative already moving forward with the Governor, whether it requires legislative approval as well. Secretary Belshé briefly elaborated on the legislative process related to these issues.

Barbara Hanna asked for clarification on the different waiver programs, in relation to MediCal and managed care, and how they work together or separately. Secretary Belshé explained how they work and assured Barbara that they are separate.

Deborah Doctor commented on the Public Policy Institute of California report mentioned by Secretary Belshé and asked about the Agency's response to its recommendation that nursing home expenditures be examined closely because of their impact on the Medi-Cal budget. Secretary Belshé stated that Deborah's issue is important, but the report did not speak to policy prescriptions. The Secretary stated that we view managed care for seniors with persons and disabilities as an important policy objective, but it's not the only one. If there are other strategies that we need to be looking at, we want to hear about it.

Brenda Premo mentioned the recommendations on the standards and measures that the California Health Care Foundation is working on that the committee should keep in mind. She stated that these standards would be drafted and sent to the Department of Health Services in October. She suggested that the committee add this to the next agenda so the committee can stay informed on the legislative processes and the managed care process. She stated that Secretary Belshé could inform the committee of the hospital process.

Bryon MacDonald welcomed the idea of looking at other supports for the cost of health care besides managed care. Secretary Belshé expanded on this item and asked the committee if this is an area that might benefit by having a more focused group looking at alternative strategies that wouldn't be captured under diversion. Sarah Steenhausen suggested also looking at models like SCAN and PACE, which also get to those same concepts of the Federal Special Needs plans. The committee agreed in discussing these ideas further.

d.) Acute and Long Term Care Integration

Sarah Steenhausen gave an update on the status of the Acute and Long-Term Care Integration (ALTCI) proposal. The Legislature did not include ALTCI as part of the final budget package before going to the Governor. Sarah added that within the ALTCI proposal, money was set aside to develop a uniform assessment tool. Unfortunately, the funding for the uniform assessment tool was also lost in the budget proposal. At this point, it's not clear what the next steps are.

Importance was stressed on the need to find a way to reengage and refocus an approach that makes sense for the people we're seeking to support.

Brenda Premo urged the committee in being supportive in trying to bring some kind of implementation related to this proposal. She stressed the tremendous potential this proposal had in providing people more choices, more options, more community based alternatives than the one that we currently have. She suggested this issue be added to the next agenda.

5) Focusing Committee Efforts Going Forward

Steve Ekstrom, the meeting facilitator, explained the process for the next agenda item. The committee was reminded of the three priorities previously chosen that will be formed into subgroups. The priorities are diversion, assessment and data.

a.) Diversion – Represented by Sarah Steenhausen

Sarah Steenhausen gave a background on diversion. Diversion refers to Diversion refers to services and supports that assist an individual in remaining at home and in the community. Diversion encompasses a range of community supports and services, including acute care, personal care services, social services, transportation, and housing—all of which help an individual to remain at home and avoid institutionalization. Diversion is critical to implementing Olmstead as it addresses community capacity and provision of services and supports that help individuals remain at home and avoid institutionalization.

Diversion Issues Raised by the Olmstead Advisory Committee:
Based on the feedback received during committee meetings and from individual Committee members, the problem related to diversion can be categorized as follows:

- Discharge Planning – role of hospitals, connecting acute to LTC needs
- System Fragmentation/importance of integration
- Case management/connection to services
- Housing
- Transportation
- Employment
- Caregiver Support
- Development of Home and Community Based Services
- Data needs: who is the population, what are needs
- Consumer control
- Information/education

Steve Ekstrom reminded the committee that in order to tackle the issues of diversion, the committee would have to start with the highest priority for these items.

Secretary Belshé referenced possible issues with the terminology of diversion, stating that it may be assumed that everyone has a clear understanding of what the problem is the committee is trying to address and that the terms used are very broad and that they can be interpreted and defined in different ways. She suggested they; 1) bring definition to what we mean by these terms or what the goals are, consistent with the Olmstead act; and 2) what are the barriers that are standing in the way of making progress what are the evidence of those barriers. She added that the committee should prioritize what would be most useful.

Brenda Premo clarified the forming of the subcommittees and stated that each group will be a broad range discussion so that the committee can see the continuum when the recommendations are made. Individuals from the committee should volunteer on the group best suits what they want to offer, given the category they want to work with.

Diversion Subcommittee Volunteers

Jorge Lambrinos
Gwen Lewis-Reid
Barbara Hanna
Elizabeth Rottger
Mary Jann
Sunny Maden
Deborah Doctor
Linda Watts
Jackie McGrath
Lydia Missaelides
Judy Citko
Donald Roberts
Tim Schwab
Marty Omoto
Byron MacDonald
Tony Sauer
Bill Chrisner
Kathie Zatin

b.) Assessment – Presented by Kate Wilber

Kate Wilber conceptualized “assessment” as the systematic collection of information that is used towards a goal or a purpose. Programs use assessments to perform a variety of functions, including functional eligibility determinations, financial determinations, individual preferences, and care plan development. Assessments vary with respect to the functions performed, the populations assessed, the level of automation, the extent of integration with other systems, the administration of the assessments, and the questions included within the assessments.

Sarah Steenhausen introduced Ben Harville, from the Department of Rehabilitation, who runs most of the Olmstead related programs for that department and has offered to co-lead the assessment subgroup.

In addition to asking for priority items, the committee was also asked to list particular barriers that are standing in the way of the state’s

ability to move forward with the assessment recommendations that were in the Olmstead plan.

Assessment issues and Barriers:

- Multiple assessment tools create duplication, inefficiencies I system
- Collection of Information: what is goal or purpose
- To consider: who administers the assessment (professional, peer), how it is used, and who is assessed
- Assessments generally used to determine service eligibility, service need, level of care, preference, track service use
- Need to figure out way to streamline the process
- Importance of Uniform Assessment: questions remain as to how would it be done
- Need to examine other states development of uniform assessment (Washington)
- Must remember to ask consumer what they want (Preference)-ties into current efforts of our Money Follows the Person project

Ben Harville pointed out that there are a couple of approaches to assessment; one being assessing the person and their deficits and the other is assessing the barriers to community alternatives. There is a major difference when we look at the various incidences and how those questions are approached. Bill Chrisner added that if we are going to move ahead with assessment we need to look to see if we are doing things with built-in bias.

Steve Ekstrom asked the committee to think about next steps as they pertain to assessment. Brenda Premo asked the committee to keep in mind what the Secretary talked about in terms of what she needs when determining next steps.

Deborah Doctor stated that in the interest of not reinventing the wheel, the subgroup could look at the exact parallels that are in the Olmstead plan, where people have already spent a lot of time discussing this and have laid out steps that they thought could be taken in regard to short-term and long-term.

Assessment Subcommittee Volunteers

Nancy Hall

Kate Wilber

Judy Citko

Mary Jann

Lydia Missaelides

Peggy Collins shared her concern of having an imbalance with the created subcommittees fearing the variance in representation may sway the discussion and color what the final product is. She felt the work groups also need to be small enough to be functional for attendance and participation to be consistent to avoid talking in circles. She suggested giving authority to Brenda Premo in making the appointments based on interest while making sure the balance that these groups are maintained. Brenda responded that this wouldn't be necessary since after the subcommittees work out issues, they will come back to the full committee. If there are specific recommendations, they will be brought back to the full committee for discussion.

c.) Data – Represented by Lydia Missaelides

Lydia Missaelides gave a brief overview data and Olmstead issues. Data is collected for a variety of uses, including individual-level clinical data that can be used to measure an individual's health and functional status; program-level data that can be used for program development and quality assurance, and county or state-level data that can be used to identify trends and address systemic needs. Data is critical to understanding population needs, gaps in services and areas of duplication. For Olmstead purposes, data can help identify individuals who are at-risk of institutionalization, individuals who have the potential to transition from institutions into the community, as well as services and supports that help individuals remain at home.

Brenda Premo shared that Secretary Belshé asked her to remind the group again that as we look at the data issue we also look what the barriers; what would be the short term, medium term, and long term things that we would want to achieve.

Data issues raised by Olmstead Advisory Committee members:

- **Need to ascertain what data is available at the program level, county level and state levels.**
- **Difficult to find updated, unified set of data across departments**
- **Need to determine what data the state needs and for what purpose.**

Clinical/Individual

Program-level

County/State

Systemic decisions

- **Need to use LTC Council inventory of data, and other efforts including LTC County data book**
- **Need to determine how data is collected and for whom is it collected across long-term care programs.**

Brenda Premo shared that she requested a list from Secretary Belshé with a series of questions she would like each subcommittee to answer. As the subcommittees begin to meet, it is hoped that this list will help guide the direction of each subcommittee.

Data Subcommittee Volunteers

Elizabeth Rottger

Peggy Collins

Kate Wilber

Lydia Missaelides

Tim Schwab

Tony Sauer

A request was made to document each subcommittee meeting for the public to comment on and return for the whole committee to discuss. Brenda Premo assured them that we will look into how to make that happen with the public and participation rules, however each meeting will have an opportunity for public comment.

Sarah Steenhausen committed to beginning the meetings of each subcommittee within the coming month to discuss next steps.

6) Review and Approval of the Olmstead Policy Statement and Olmstead Filter

Olmstead Advisory Committee Policy Statement

Brenda Premo explained that the purpose of reviewing these documents is to assure that the items and language in each document are what the full committee agrees on. She stated that if there are no major changes and the committee agrees on each document, then the committee would use the policy and filter to review not only legislative policy, but also other things that come to our attention of a policy nature such as regulations.

Brenda also reminded the committee that we are an advisory group to Secretary Belshé and that she has indicated that she will take into account every recommendation we make and respond. Secretary Belshé will also respect the policy and filter this committee puts together, however we must understand that there are other filters developed by other committees, by departments, and of course by the Administration that also have to be used in reviewing any legislation. The committee's filter and recommendations may have a major impact on legislation, but may not be the only ones.

Sarah Steenhausen began the discussion by reading the Olmstead Policy Statement, which was followed by comments and suggestions from the committee. Brenda Premo assured the committee that their suggestions would be written up and then sent back out to the committee for further comments and approval.

Brenda Premo commented on the importance as a committee that we ensure the greatest contribution and participation of those populations and the people who work with us. As we go through this process, all of those voices need to be heard but we need to respect the need of the representatives of the populations in question, which she thought the committee was doing. We do represent the whole range of disability in California. She closed this item by stating that we, knowing in principle, agree with the ideals of the policy; we just need to clean it up.

Olmstead Advisory Committee Policy Filter

Sarah Steenhausen read and took comments on the draft Olmstead Policy Filter. Brenda Premo then reviewed how the filter could be used in reviewing through legislation or budget issues to say if a policy meets the Olmstead test. Once the committee determines this, a recommendation will be given to the Secretary for appropriate action, if need be.

The committee made comments and suggestions to incorporate in the filter. Brenda Premo assured the committee that all of their comments would be recorded and the filter would be rewritten and then sent back out to the committee for another review and approval. She would like to be able to do a final vote on the filter document at the next committee meeting.

7) Legislation Review

Brenda Premo reminded the committee that although they would discuss the bills that Sarah had listed and since bills change from one minute to the next, she suggested they focus on the most current moving bills and of the biggest concern and perhaps focus on the two-year bills at the next meeting.

Bills Discussed

AB 643, Protection and Advocacy
SB 962, Adult Residential Facilities for Persons with Special Health Care Needs.

8) The California Health Incentives Improvement Project

Brenda Premo introduced Megan Juring to review the California Health Incentives Improvement Project (CHIIP). The project is a collaborative effort funded by the centers for Medicare and Medicaid services to support the removal of barriers for people with disabilities to access employment and gain full earnings. The CHIIP was created in 2002 and was transferred to the Sonoma State University by the Department of Health Services in 2003. This project works closely with CMS to build the state and local intergovernmental

infrastructure to remove health care barriers. Also, to increase the number of participants specifically in the Medical working disabled and IHSS to work programs. Other partners include the Governor's Committee on Employment of People with Disabilities and the Western University of Health Sciences. Brochures and planning tools were brought and shared with the committee.

9) Next Steps and Next Meeting Agenda

A suggestion was made to meet in the second week of November. An e-mail would be sent out with dates to choose from and a final date would be set.

Next Items for Agenda

- 1) Transportation – will not have representation until most likely meeting after next.
- 2) Housing – the California Housing Finance Agency, who develops housing stock and the Department of Housing are ready and prepared to come to the next meeting if the committee is interested.
- 3) Managed Care Implementation
- 4) Other models of managed care
- 5) Presentation from someone working on the Targeted Case Management plan at Laguna Honda.
- 6) Mental Health - Implementation of Process
- 7) Money Follows the Person – Where are we with it?
- 8) Continued business from previous meeting.
- 9) Other recommendations or suggestions beyond managed care.
- 10) Integrated care and coordination

Brenda stated she would like to limit the number of presentations given at the next meeting to allow time for discussion.

10) Public Comment

Donald Roberts shared his "Choices Book" with everyone and explained that it was about a three-year project with the Consumer Advisory Committee. He asked for it to be taken, reviewed and commented on, so he could take it back to the next CAC meeting.

Pat McFarland from the Disabled in State Service provided comment on AB 1643. She supports the bill which deals with long term care insurance. Brenda suggested they add her issue to the next agenda.

Maggie (on the phone) commented on the Acute and Long Term Care Integration concept and that she believes in it and believes stakeholders should be a part of a legislative development. She also commented that she thinks the committee needs to consider a working partnership with IHSS staff to keep consumers, consumers and not a managed care patient. Keeping a social model for home care is a vital concern. She stated that as she recalled, Olmstead was about people who wanted out of a facility and into independent living. She was asked to email her additional comments to Sarah or Brenda.

Peter Steinert, Chair of the Transportation Task Team, commented that the Olmstead Plan needs to have more emphasis on mobility and transportation options. He mentioned that they had a Mobility Summit in March, which identified barriers that they have since made headway on. He mentioned the hopes for the Real Choice Systems Transportation Grant. He offered to make a presentation at a future Olmstead Committee meeting.

A comment was made in support of SB 840, relating to managed care issues.

Meeting was adjourned.